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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

& CAPITAL PARTNERS, L.P.; DAVID C. )  
SOWARD, TMP; LEONARD BOSACK; )  
and SANDY LERNER, aka SANDRA K. )  
LERNER, )

Plaintiffs,

v.

UNITED STATES OF AMERICA, )  
DEPARTMENT OF THE TREASURY, by )  
its agency, the INTERNAL REVENUE )  
SERVICE, )

Defendants.

Case No. C-01-4740 MJJ

LEONARD BOSACK, and SANDRA K. )  
LERNER, )

Plaintiffs,

v.

UNITED STATES OF AMERICA, )  
DEPARTMENT OF THE TREASURY, by )  
its agency, the INTERNAL REVENUE )  
SERVICE, )

Defendants.

Case No. C-03-4579-MJJ

**FURTHER JOINT CASE  
MANAGEMENT STATEMENT AND  
REQUEST TO CONTINUE CMC  
AND ~~(Proposed)~~ ORDER THEREON**

Date: July 12, 2005  
Time: 1:55 p.m.  
Place: Via Telephone

1 The parties to this consolidated action jointly submit this Further Case Management  
 2 Statement in anticipation of the July 12, 2005, Case Management Conference, and for the reasons  
 3 stated below, respectfully request that the Court continue the July 12, 2005, Case Management  
 4 Conference to October 25, 2005, or such other later date in October or November, 2005, as is  
 5 convenient for the Court.

6  
 7 **1. PROCEEDINGS SINCE APRIL 12, 2005, CASE MANAGEMENT**  
 8 **CONFERENCE**

9 Since the April 12, 2005, Case Management Conference, the parties have initiated  
 10 settlement discussions in an effort to fully resolve the issues in these consolidated cases.

11  
 12 **2. FURTHER ANTICIPATED PROCEEDINGS**

13 The parties are working together in good faith to attempt to resolve these cases through  
 14 their settlement discussions and are continuing to work together in good faith in the discovery  
 15 process. In the event that the parties' settlement discussions are unsuccessful, the parties  
 16 anticipate taking at least two additional depositions on the procedural issues, and the United  
 17 States will subpoena relevant documents from third party record keepers.

18  
 19 **3. REQUEST TO CONTINUE STATUS CONFERENCE**

20 The parties are actively involved in settlement discussions. They anticipate that it may  
 21 take a period of approximately ninety (90) days for a determination as to whether a settlement  
 22 will be possible. Accordingly, the parties respectfully request that the Court continue the July  
 23 12, 2005, Case Management Conference and set a further status conference to occur on October  
 24 25, 2005, or such other later date in October or November 2005, as is convenient for the Court.  
 25 By October 25, 2005, the parties anticipate that they will be able to realistically advise the Court  
 26 as to whether the cases will be resolved through settlement, and if not capable of resolution, to  
 27 advise the Court as to the further proceedings necessary in the cases.

28 This request is not made for the purposes of delay, but rather to conserve the parties and

the Court's resources by eliminating an unnecessary hearing and allowing the parties sufficient time in which to continue their good faith settlement discussions.

Respectfully submitted,

MARTIN A. SCHAINBAUM  
A Professional Law Corporation

Dated: July 6, 2005 By: /s/ Martin A. Schainbaum  
Martin A. Schainbaum  
Attorneys for the Plaintiffs

KEVIN V. RYAN  
United States Attorney

Dated: July 6, 2005 By: /s/ Emily J. Kingston  
EMILY J. KINGSTON  
Assistant U.S. Attorney  
Attorneys for the United States of America

**ORDER**

In light of the parties' request, and for good cause shown,

**IT IS HEREBY ORDERED** that the Case Management Conference currently scheduled for July 12, 2005, at 1:55 p.m. via telephone is continued to November 1, 2005, at 1:55 p.m.

**IT IS SO ORDERED.**

Dated: 7/7/2005 /s/  
THE HONORABLE MARTIN J. JENKINS  
United States District Judge